

FIDELITY & DEPOSIT COMPANY OF MARYLAND

IBLA 87-267      Decided June 26, 1989

Appeal from a decision of the Colorado State Office, Bureau of Land Management, denying termination of liability on bond No. 90 97 974. D-052256-A.

Affirmed.

1.      Oil and Gas Leases: Bonds

Where no acceptable alternative bond has been filed, BLM properly refuses to terminate a surety's liability on an oil and gas lease bond bearing no expiration date, even though its principal has failed to satisfy the bond premium.

APPEARANCES: Kathryn K. Shanks, Englewood, Colorado, for Fidelity and Deposit Company of Maryland.

OPINION BY ADMINISTRATIVE JUDGE HUGHES

Fidelity and Deposit Company of Maryland (Fidelity) has appealed from a December 22, 1986, decision by the Colorado State Office, Bureau of Land Management (BLM), denying its request for cancellation or termination of liability on bond No. 90 97 974, covering four of six working interest owners in oil and gas lease D-052256-A.

The six working interest owners are Chevron U.S.A., Amoco Production Company, Marathon Oil Company, Sabine Corporation, Mrs. Ann Miller, and the Author Cameron Trust. Gulf Oil Corporation and Amoco Production Company's record title interests in the subject lease are covered by nationwide bonds and are not at issue herein. Bond No. 90 97 974 was undertaken by Fidelity effective October 6, 1977, and covered the four remaining interests. 1/ The bond contains no expiration date.

[1] Under 43 CFR 3104.1(a), a lessee is required, prior to commencement of drilling operations, to submit a surety or personal bond, the amount

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1/ The bond originally covered Husky Oil Company, which was replaced by Marathon Oil Company as co-principal effective July 30, 1984.

of which is set elsewhere in Subpart 3104. The lessee's obligation to post a general lease and drilling bond is further explained in 43 CFR 3104.2(a).

Fidelity maintains on appeal that BLM was required to terminate its liability on the subject bond because Marathon Oil Company failed to satisfy a \$125 premium renewing the bond for the period September 3, 1986, through September 3, 1989. We disagree. The governing regulation, 43 CFR 3104.8, unequivocally prohibits BLM from cancelling or releasing a surety from liability under a bond until an alternative acceptable bond has been filed: "The authorized officer shall not give consent to the termination of the period of liability of any bond unless an acceptable alternative bond has been filed or until all the terms and conditions of the lease have been met."

No acceptable alternative bond has been filed, and BLM therefore properly denied Fidelity's request. Cf. Marathon Oil Co., 102 IBLA 285, 291 (1988) (holding that a bond may be terminated when an acceptable replacement bond has been provided).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

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David L. Hughes  
Administrative Judge

I concur:

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C. Randall Grant, Jr.  
Administrative Judge